

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BAKHEIT A. SHATA,

Plaintiff,

v.

U.S. CITIZENSHIP AND IMMIGRATION
SERVICES,

Defendant.

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MEMORANDUM AND ORDER

This matter is before the court on defendant's motion to dismiss plaintiff's complaint pursuant to Rule 4 of the Federal Rules of Civil Procedure.¹ Filing No. [16](#). Defendant first asks this court to dismiss plaintiff's complaint for lack of jurisdiction because service of process has not occurred on the United States Attorney's office. Filing No. [18](#). Rule 4(i)(1) of the Federal Rules of Civil Procedure requires that service of process upon the United States and its agencies be effectuated by:

(A) delivering a copy of the summons and complaint to the United States Attorney for the district in which the action is brought or by sending a copy of the summons and complaint by certified mail to the civil-process clerk at the United States Attorney's office;

(B) by also sending a copy of the summons and the complaint by registered or certified mail to the Attorney General of the United States at Washington, District of Columbia, and

(C) if the action challenges an order of a non-party agency or officer of the United States, by sending a copy of the summons and of the complaint by registered or certified mail to the officer or agency.

Fed. R. Civ. P. 4(i)(1).

¹Defendant raises other issues in its motion to dismiss which will be addressed at a later date.

In order for a party to serve a United States agency, it must serve the United States and also send a copy of the summons and complaint by registered or certified mail to the agency. Fed. R. Civ. P. 4(i)(2). The court finds that service of process is insufficient, even though the defendant has constructive notice, because the plaintiff failed to deliver a copy of the summons and complaint to the United States Attorney's office for the District of Nebraska, as required by Rule 4(i)(1)(A).

Defendant has also filed a motion to extend time to respond to plaintiff's motion to strike, Filing No. [23](#). The court will grant this motion and allow defendant ten days from the date the plaintiff effectuates service on the United States Attorney's office to respond to the motion to strike.

IT IS THEREFORE ORDERED:

1. Plaintiff has thirty days from the date of this order to effectuate service of process on the United States Attorney's office. Failure to do so may result in dismissal of this case.

2. Defendant's motion to extend time, Filing No. [23](#), is granted and defendant has ten days from the date service of process is effectuated on the United States Attorney's office to respond to plaintiff's motion to strike defendant's motion to dismiss.

DATED this 24th day of June, 2009.

BY THE COURT:

s/ Joseph F. Bataillon
Chief District Judge